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09/332,625	06/11/1999	JOEL G HASSELL	UV-110	3146
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G. VICTOR TREVZ FISH & NEAVE 1251 AVENUE OF THE AMERICAS NEW YORK, NY 100201104		EXAMINER SALCE, JASON P		
		ART UNIT PAPER NUMBER		
		2611		
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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/332,625

Applicant(s)

HASSELL ET AL.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 5/7/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-167 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-167 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 14.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Applicant's arguments filed 5/7/04 have been fully considered but they are not persuasive.

Applicant has amended the independent claims and also argues the previous rejection.

Schein has been used as the base reference in all of the pending claims in the instant application. Applicant discusses what the applicant and Schein both teach, and also states how the applicant improves upon Schein's invention, however, the applicant has failed to state how Schein does not teach the claim limitations. The applicant only states how the instant invention improves upon the invention of Schein.

Further, the applicant has amended independent claim 1 (and subsequent claims) to include the limitations of "**obtain the current program guide data directly from the continuous data stream for inclusion in program guide displays on the user television equipment**". The examiner notes that Schein still teaches the added limitation. Schein clearly discloses obtaining current program guide data directly from the continuous data stream at Column 7, Lines 2-7 and 36-39, where the program guide data (in the form of the actual data or commands) are transmitted in the data stream to the user directly.

Applicant has also amended independent claim 41 (and subsequent claims) to include the limitation "**to perform a real-time action associated with a television program identified by a particular unique identifier when the particular unique identifier is in the continuous data stream**". In the previous Office Action the

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examiner used the examiner of upgrading a computer program, and therefore overcomes that particular example used in Schein. However, Schein still reads on the amended limitation at Column 7, Lines 24-35 for transmitting commands for communicating different types of information, for example, the title of a show. These commands instruct a relational database to be updated, which is (broadly recited) a real-time action. The examiner notes that Schein performs numerous real-time actions are also provided by data transmitted to the client in the VBI of the data stream.

In regards to the remaining arguments, the applicant continues to only discuss the improvements of the applicant's invention in the instant application, and fails to discuss how Schein does not disclose the claim limitations. Therefore, the rejection from the previous Office Action is repeated below, and this Office Action is made Final.

#### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 5/07/04 was filed after the mailing date of the Non-Final Office Action on 11/7/03. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 7, 13, 15, 17-41, 46, 52, 54-58, 63, 69, 71, 73-96, 101, 107, 109-113, 118, 124, 126, 128-152, 157, 163 and 165-167 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Schein et al. (U.S. Patent No. 6,002,394).

Referring to claim 54, Schein discloses an interactive program guide system in which program guide data is provided (see Column 7, Lines 24-35) and wherein at least some of the program guide data is current program guide data (see Column 7, Lines 27-28 and an unique identifiers (see Column 7, Lines 32-35).

Schein discloses a continuous data stream processor configured to select the current program guide data and one of the unique identifiers for inclusion in a continuous data stream (see Database 370 in Figure 14 and Column 18, Lines 20-27 and 44-52). Note at Column 7, Lines 43-45 discusses including this information in the VBI (inclusion into a data stream).

Schein also discloses distribution equipment configured to distribute the current program guide data and a unique identifier selected by the continuous data stream processor in the continuous data stream to the user television equipment (see satellite 24 in Figure 1 and Column 5, Lines 45-65 for how the satellite is used for transmitting EPG data).

Schein also discloses a program guide server (see Server 350 in Figure 14, or element 408 in Figure 15).

Schein also discloses an interactive television program guide implemented on user television equipment (see Figure 16A).

Schein also discloses obtaining a unique identifier from the continuous data stream (see Column 7, Lines 24-31 for receiving short commands regarding a unique identifier).

Schein also discloses obtaining current program guide data from the continuous data stream (Column 7, Lines 36-40) and storing some of the current program guide data in a database stored in the user television equipment (see Column 7, Lines 36-37 for storing program guide information locally in a database).

Schein also discloses obtaining some of the program guide data from the program guide server in response to requests generated by the interactive television program guide (see Column 18, Lines 44-52). **Note that the added limitations have been addressed in the Response to Arguments section (see above).**

Referring to claim 41, see rejection of claim 54. Also note the additional limitation of "to perform a real-time action when a particular unique identifier is in the continuous data stream". See Column 5, Lines 45-50 for transmitting data over a satellite to perform an upgrade (real-time action) of a computer program, which runs the electronic program guide. **Note that the added limitations have been addressed in the Response to Arguments section (see above).**

Referring to independent claims 1, 56-57, 96, 108, 111-112, 152, 165 and 167, see rejection of claim 54 for the processing and transmission of the EPG data (current program guide data and identifier) to the user's television equipment, and claim 41 for performing a real-time action when a particular identifier is in the data stream.

Referring to claim 2, see rejection of claim 54 for the current program guide data containing an identifier, and the rejection of claim 41 for performing a real-time action.

Referring to claim 7, Schein discloses recording a program (see Column 13, Line 11). Schein also discloses recording the program when a identifier is in the continuous data stream (note that the identifier can be program guide data transmitted from the headend as disclosed at Column 7, Lines 24-31, therefore since a program is being recorded from selection in the program guide, then Schein is recording the program based on the identifier sent in the form of program guide data sent in the data stream transmitted from the headend).

Referring to claim 13, see rejection of claim 7. Note that "one or more of the one or more identifiers is a program grouping identifier" is equivalent to one identifier, therefore analogous to the limitations in claim 7.

Referring to claim 15, Schein discloses that the data stream processor obtains current program guide data from the program guide server (see Figures 14-15 and Column 18, Lines 20-27 and 44-54).

Referring to claim 17, Schein discloses processing program guide data in real-time with no data caching (see Column 2, Lines 45-49).

Referring to claim 18, Schein discloses filtering circuitry at the user television equipment for filtering program guide data from the data stream based on a tag (see element 3 in Figure 3 and Column 7, Lines 36-39).

Referring to claims 19-20, Schein discloses prefetching program guide data from the data stream and the program guide server (see Column 12, Lines 28-32). Note that

the data is transmitted in band, therefore must be retrieved from the data stream, and that the user requests program guide data (see Column 13, Lines 8-13).

Referring to claim 21, Schein discloses that the program guide invokes a remote procedure call (makes a request from the remote) from the program guide server (see Column 18, Lines 44-54). Schein also discloses receiving information in response to the request (see again, Column 18, Lines 44-54)

Referring to claim 22, see rejection of claim 21 and note that an object request broker is simply a request, the claim provides no further limitations that describe the broker.

Referring to claim 23, see rejection of claim 21, and note that the schedule guide that the user is requesting data from (via a server) will display favorite programs, therefore, configuration data is inherently present to define the list of program that will be displayed in the program guide (see Column 18, Lines 54-61).

Referring to claim 24, see rejection of claim 23 and note that favorite programs are user defined (settings).

Referring to claims 25-26, Schein discloses recognizing what type of data is in the data stream (see Column 7, Lines 24-35). Also see Column 18, Lines 44-54 for receiving data from the program guide server.

Referring to claims 27-28, see the Casablanca example at Column 15, Lines 6-42 for obtaining program guide data for a program of a particular category.

Referring to claim 29, Schein discloses obtaining program guide data from the data stream when the user changes the channels (see Column 13, Lines 8-17).



Referring to claim 30, Schein discloses obtaining program guide data from the data stream when a user indicates a desire to browse program listings data in a current time slot (see Figures 16A-16B for obtaining HBO programs for a current time slot (Monday, December 18<sup>th</sup>)). Note again, at Column 18, Lines 44-54 that when a user makes a request, the information is retrieved from a server, and information sent from a server in a television broadcast environment, inherently send a data stream to the client for extraction of the requested data to the client.

Referring to claims 31-32, see again Figures 14 and 15 for a server sending a data stream to a client upon request (see also Column 18, Lines 20-67).

Referring to claim 33, see Column 12, Lines 28-32 for periodically receiving program guide data in 3 hour programming blocks.

Referring to claims 34-35, see rejection of claim 1 and note that at Column 18, Lines 20-28 for the server 350 polling database 370 for files to transmit to the client.

Referring to claim 36, Schein discloses a main facility (see more than one server 350 in Figure 14 and Television Guide Database 408 in Figure 15) for providing a data stream of current program guide data (see Column 4, Lines 29-32). Note that the client uses the program guide provided from the database 408; therefore the data stream sent from the distribution equipment (see rejection of claim 1), is the same sent from the distribution equipment.

Referring to claim 37, Schein discloses that the data stream processor is configured to select current program guide data from programmer provided in-band information (see Column 12, Lines 28-32).

Referring to claims 38-39, Schein discloses providing the viewer's local cable line-up (see Column 18, Lines 52-54).

Referring to claim 40, see rejection of claim 1.

Referring to claims 46 and 52, see rejection of claims 7 and 13, respectively.

Referring to claim 55, see Column 12, Lines 28-32 for storing program guide data at the user's television equipment in increments of 3-hour blocks (some of the program guide data).

Referring to claims 58, 63 and 69, see rejection of claims 2, 7 and 13, respectively..

Referring to claims 71 and 76, see Figures 14 and 15 for two different embodiments of a server-client approach for receiving program guide data.

Referring to claims 73-75, see rejection of claims 17-19, respectively.

Referring to claims 77-94, see rejection of claims 21-38, respectively.

Referring to claim 95, see rejection of claim 40.

Referring to claim 101 and 107, see rejection of claims 7 and 13, respectively.

Referring to claim 113, 118 and 124, see rejection of claim 2, 7 and 13, respectively.

Referring to claim 126, see rejection of claim 15.

Referring to claims 128-151, see rejection of claims 17-40, respectively.

Referring to claims 157 and 163, see rejection of claims 7 and 13, respectively.

Referring to claims 110 and 166, see rejection of claim 55.

***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-4, 9-10, 42-43, 48-49, 59-60, 65-66, 97-98, 103-104, 114-115, 120-121, 153-154 and 159-160 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al. (U.S. Patent No. 6,002,394) in view of Lawler et al. (U.S. Patent No. 5,699,107).

Referring to claim 3, Schein setting a reminder (real-time action) to view a program (see Figure 6 for the "RESV" flag in the database transmitted to the user (unique identifier in the data stream), and Column 15, Line 66 and Claim 4 of Schein), but fails to disclose "displaying" a reminder. Lawler discloses displaying an overlaid reminder window, to remind the user that a program is about to air (see Column 12, Lines 35-49).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the EPG, as taught by Schein, to display the reminder overlay window, as taught by Lawler, for the purpose of preventing the user from missing his/her favorite show which is about to air.

Claim 4 directly relates to claim 3, with the additional limitation of prefetching current program guide data when the program guide displays the reminder. Schein discloses receiving program guide data in 3-hour blocks (prefetching data) through the transmission of a digital data stream (see Column 12, Lines 28-32). Therefore, the data

could inherently be prefetched or even post-fetched by the system during the display of a reminder.

Referring to claims 9-10, see rejection of claims 3-4, respectively. Note that "one or more of the one or more identifiers is a program grouping identifier" is equivalent to one identifier, therefore analogous to the limitations in claims 3-4.

Referring to claims 42-43 and 48-49, see rejection of claims 3-4 and 9-10, respectively.

Referring to claims 59-60 and 65-66, see rejection of claims 3-4 and 9-10, respectively.

Referring to claims 97-98 and 103-104, see rejection of claims 3-4 and 9-10, respectively.

Referring to claims 114-115 and 120-121, see rejection of claims 3-4 and 9-10, respectively.

Referring to claims 153-154 and 159-160, see rejection of claims 3-4 and 9-10, respectively.

5. Claims 5-6, 11-12, 44-45, 50-51, 61-62, 67-68, 99-100, 105-106, 116-117, 122-123, 155-156 and 161-162 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al. (U.S. Patent No. 6,002,394) in view of Ming et al. (U.S. Patent No. 5,710,815).

Referring to claim 5, Schein discloses ordering a pay-per-view program (see Column 13, Lines 12-13), but fails to disclose the process of authorizing a user to view

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the program after purchase. Ming discloses authorizing a viewer to receive a program by a code inserted into the data stream (see Column 6, Lines 37-47).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the EPG, as taught by Schein, to authorize the viewing of a pay-per-view program, as taught by Ming, for the purpose of restricting subscriber access to cable television programming, based upon whether a particular subscriber is a member of a particular, predetermined class of users (see Column 2, Lines 2-5 of Ming).

Claim 6 directly relates to claim 5, with the additional limitation of prefetching current program guide data when the program guide has authorized the pay-per-view program for viewing. Schein discloses receiving program guide data in 3-hour blocks (prefetching data) through the transmission of a digital data stream (see Column 12, Lines 28-32). Therefore, the data could inherently be prefetched or even post-fetched by the system during the display of a reminder.

Referring to claims 11-12, see rejection of claims 5-6, respectively. Note that "one or more of the one or more identifiers is a program grouping identifier" is equivalent to one identifier, therefore analogous to the limitations in claims 5-6.

Referring to claims 44-45 and 50-51, see rejection of claims 5-6 and 11-12, respectively.

Referring to claims 61-62 and 67-68, see rejection of claims 5-6 and 11-12, respectively.

Referring to claims 99-100 and 105-106, see rejection of claims 5-6 and 11-12, respectively.

Referring to claims 116-117 and 122-123, see rejection of claims 5-6 and 11-12, respectively.

Referring to claims 155-156 and 161-162, see rejection of claims 5-6 and 11-12, respectively.

6. Claims 8, 14, 47, 53, 64, 70, 102, 108, 119, 125, 158 and 164 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al. (U.S. Patent No. 6,002,394) in view of Casement et al. (U.S. Patent No. 5,969,748).

Referring to claim 8, Schein discloses performing the real-time action of selecting a parental control option when an identifier is in the data stream (see Figure 19A for the program guide providing the "Parental Controls" option and Column 7, Lines 24-31 for transmitted program guide data to the client). Schein fails to disclose locking a program and prompting a user for a control code. Casement discloses locking a program (Figures 2C-2E) and prompting a user for a control code (Figure 2G).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program guide, as taught by Schein, to include the parental lock and code prompt, as taught by Casement, for the purpose of preventing a child from watching television programs that have undesirable content.

Referring to claim 14, see rejection of claim 8. Note that "one or more of the one or more identifiers is a program grouping identifier" is equivalent to one identifier, therefore analogous to the limitations in claim 8.

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Referring to claims 47 and 53, see rejection of claims 8 and 14, respectively.

Referring to claims 64 and 70, see rejection of claims 8 and 14, respectively.

Referring to claims 102 and 108, see rejection of claims 8 and 14, respectively.

Referring to claims 119 and 125, see rejection of claims 8 and 14, respectively.

Referring to claims 158 and 164, see rejection of claims 8 and 14, respectively.

7. Claims 16, 72 and 127 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al. (U.S. Patent No. 6,002,394) in view of Seibert (U.S. Patent No. 6,601,107).

Referring to claim 16, Schein teaches all of the limitations in claim 1, but fails to teach prioritizing program guide data for transmission. Seibert discloses prioritizing EPG data for transmission to multiple clients, using a fuzzy logic approach (see Column 5, Lines 9-17).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program guide transmission system, as taught by Schein, to utilize the fuzzy logic prioritization scheme for transmitting the program guide data, as taught by Seibert, for the purpose of overcoming the existing problems associated with inefficient bandwidth or other resource allocation, excessive delays and lost information (see Column 2, Lines 8-11 of Seibert).

Referring to claim 72, see rejection of claim 16.

Referring to claim 127, see rejection of claim 16.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 27, 2004



CHRIS GRANT  
PRIMARY EXAMINER